

MINUTES OF THE MEETING OF THE BAR-BENCH MEDIA CONFERENCE
Wednesday May 3, 2006

A meeting of the Bar-Bench-Media Conference was held on Wednesday, May 3, 2006 at the Supreme Court Chambers in Wilmington. The meeting was open to the public. Notice of the meeting was posted. The Conference is grateful to Micheline Boudreau, WHYY, who agreed to take the minutes in the absence of Steve Taylor, who had a scheduling conflict. The members of the Conference in attendance were:

Members from the Bar:

- Claire DeMatteis, Stradley Ronan Stevens & Young, LLP
- F. Michael Parkowski, Parkowski & Guerke PA (by teleconference)

Members from the Bench

- Judge Peggy Ableman, Superior Court
- Judge Thomas Ambro, US Court of Appeals, 3rd Circuit
- Judge Joseph Flickinger, Court of Common Pleas
- Andrea Shaffer, Family Court

Members of the Media:

- Micheline Boudreau, WHYY TV12
- Peg Brickley, Dow Jones
- Chris Carl, WDEL 1150AM
- Randall Chase, Associated Press
- John Dearing, WBOC-TV (by teleconference)
- Mark Eichmann, WILM 1450AM
- Rita Farrell
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- MEDIA GUESTS
- Steve Farr, Bloomberg Business News
- Phil Millford, Bloomberg Business News
- Esteban Parra, News Journal

I. Approval of Minutes

(a) February 8, 2006

The first agenda item was approval of the draft minutes from the February 8, 2006 meeting of the Conference. Minutes (without amendment) were approved upon motion to accept, which was duly seconded.

Rita Farrell stated that Bar-Bench-Media Conference meetings are open to the public, with the date and time posted on the website: <http://courts.delaware.gov/BBMC>

II. Old business

(a) ACCESS: Sub-Committee status report: Peg Brickley

Peg Brickley reported that the Access Subcommittee has met and members appreciated the support from Chancery Court staff and Vice Chancellor Strine in improving access, including making available hard copies of Supplementals and daily docket sheets.

The committee identified the following problems and possible remedies:

.Too few public terminals with just one in Dover and two in Wilmington, despite high demand for their use.

.Superior Court documents are not well organized for public use.

.It is prohibitively expensive to obtain copies of Chancery records, including printouts from the public terminal.

It is prohibitively expensive to access LexisNexis.

Registrar Ed Pollard plans to install a terminal in the New castle Courthouse press room.

The Sub-Committee asked that the members of the Bench take a leading role in negotiating a better deal with LexisNexis including provisions for public passwords, cost concessions, and a Pacer-like process. The Committee noted that while an electronic system is less expensive to maintain, LexisNexis costs continue to escalate, and, despite significant technical difficulties, has no incentive to improve service or value.

Judge Peggy Ableman is aware of Superior Court problems and has received many complaints. However she noted that the problem is not just LexisNexis and not everything is filed electronically.

In response to Judge Ableman's question about what the Conference would like the bench to do to change the way we work with LexisNexis, Randall Chase suggested the Conference invite a LexisNexis representative to meet with the Conference. Peg Brickley disagreed, stating it's up to courts and judges to work with their vendors. Rita Farrell said when she talked with two LexisNexis executives in October, they expressed interest in resolving problems. But now follow-up phone calls have not been returned Judge Ableman said we need to let LexisNexis know their service is not satisfactory, and Peg Brickley reiterated that . it is not the Conference that negotiates vendors' contracts, but the Courts, and that the company has no incentive to work with reporters.

Judge Ableman said she would convey the media's concerns to her court.

Randall Chase moved that the Conference invite LexisNexis to send a representative to the next Bar-Bench-Media Conference meeting. The motion was seconded and passed.

Peg Brickley spoke about making court calendars user-friendly. She praised the Third Circuit's website, but said calendars are difficult to find and asked if the site can be improved with respect to an earlier posting of calendars (currently only 7-10 days in advance) and more prominent display of "cases of interest" like that of the Montana court website)? Judge Thomas Ambro said he would look into it.

Esteban Parra said court calendars are often out-of-date, inaccurate (especially with respect to charges), and poorly organized. Judge Ableman said even judges aren't always apprised of changes and she will recommend that updates be more frequent.

Esteban Parra also said that because the Superior Court computer is housed behind closed doors, reporters have to ask permission to use it. Rita Farrell said reporters have complained that the documents in baskets are unsorted and need to be organized to be useful. Judge Ableman says she'll look into these concerns' but she reminded members of the media that they can address these concerns by meeting directly with staff and she would help facilitate this approach.

Esteban Parra asked if similar meetings can be arranged with the Court of Common Pleas, and Judge Flickinger said if reporters gave him a list of concerns, he would arrange such a meeting. Judge Flickinger also noted that he has not been on the e-mail list and asked that members add his email address, joseph.flickinger@state.de.us, to any Bar-Bench-Media Conference communication.

(b) CAMERAS: Sub-Committee status report: Esteban Parra

Esteban Parra reported that the News Journal toured Chancery Court and arranged for a test of cameras during a hearing in courtroom 12B, which is designed to accommodate cameras. The News Journal also sent a still photographer. After the hearing, attorneys said they did not mind the cameras, but Vice Chancellor John Noble said he was distracted by the clicking of the still camera.

(c) WORKSHOP: Status report: Claire DeMatteis

Claire DeMatteis reported that Dave Culley, Don Brown and she have met and mapped out a format of a workshop on reporting on the courts. They have a potential guest speaker, and hope the Delaware bar will partner with the Conference and host the workshop at DBA headquarters. The first panel will be mainly judges. The lunchtime speaker will be CNN correspondent Kathleen Koch, who often covers trials. The afternoon panel will include members of the media and attorneys. The working theme of the workshop is "Inside Baseball: Courts & Trials." The workshop is planned for October or early November (two dates in October don't work for the Bar, the 4th & 25th). One concern is that to ensure that judges and attorneys attend, it would be important to offer CLE credit. The committee is also exploring partnering with a media sponsor, perhaps the News Journal, or Channel 10.

(d) LEXIS-NEXIS: Status report

LexisNexis subcommittee members are not present, but Rita Farrell reported that Justice Jack Jacobs was planning to talk with Justice H. D. Ridgely about getting more public passwords authorized as a stopgap measure until the arrangements with the company can be restructured..

(e) VIDEO CONNECT: Status report

Rita Farrell reported that Kathleen Jennings-Hostetter and Steve Taylor were preparing a report for the Conference about how Video Connect worked during the Disney Trial.

III NEW BUSINESS

(f) EXPANDED COVERAGE: Recommendation to Supreme Court: to expand electronic media coverage to criminal and civil motion practice in Superior Court

Rita Farrell presented a draft letter to Chief Justice Myron Steele to expand cameras in court coverage. **see draft of letter**

Judge Peggy Ableman said any concern about expanding coverage would be for juries, and not judges or lawyers. At present, cameras are permitted in non-jury trials but because there is more interest in jury trials, the logical preliminary step would be to allow cameras into criminal and civil motion practice proceedings.

The draft letter was amended by motion to include civil motion practice in Superior Court. Judge Ableman noted that while logistical problems were inevitable, they were not insurmountable, especially if there is no jury present.

The letter to Chief Justice Steele will be sent as amended.

(g) FOIA COALITION – Delaware Chapter forming

Dave Ledford will discuss this venture at the next Bar-Bench-Media Conference meeting.

Rita Farrell thanked the Administrative Office of the Courts and Administrator Patricia Walther Griffin for providing available guidelines for public access and for offering to arrange a meeting of court administrators with reporters.

Rita Farrell noted that in all instances the stated goal of the courts was that "in general, all case records and information are open to public, except the following:" There followed a long list of exceptions.

please see the handout provided with specific exceptions, and questions about why certain information is covered by the exception and what concerns about public access inform the policy

There is an ongoing effort to standardize and upgrade the guidelines on access.

(h) PRIVATE VENDORS: Public Records and the US Senate Judiciary Committee:

Rita Farrell contacted the administrator of the federal court system to inquire about why each state is tasked with developing its own electronic filing system rather than being able to tap into the federal courts' Pacer system, which is free, technically reliable, and easy to navigate. She was advised that in March, an experiment was begun to test the feasibility of this idea. Senator

Biden's office was contacted for help on access issues because of the Senator's position on the Judiciary Committee, and Rita Farrell will provide the Senator's staff with background.

(i) PUBLIC FORUM

Mr. Robert Reeder (302/366.0716) had asked to address the Conference on his concern about the cost for a pro-se citizen to use the court system. Because the Conference meetings are public, Mr. Reeder's request was granted as a courtesy. Vice Chancellor Strine recused himself in advance of the meeting because he was the presiding judge in one of Mr. Reeder's court cases.

According to Mr. Reeder, his pending civil case has cost him nearly \$8000, and that these costs prevent the average citizen from going to court. Mr. Reeder's fees included scanning evidence pages, transcripts, filing fees, and record transfer fees.

Rita Farrell said Mr. Reeder could submit his concerns in writing for the record.

Next Meeting Date

The next meeting of the Conference is scheduled for Wednesday September 20th at 12:30pm. (note: Meeting date changed to Tuesday, September 19).

Several members asked for an updated list of all Conference members. Rita Farrell will ask Steve Taylor to provide that.

Respectfully Submitted,
Micheline Boudreau, WHY TV12